

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DIGITAL MEDIA SOLUTIONS, LLC,)	CASE NO. 1:19-cv-00145
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
vs.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
SOUTHERN UNIVERSITY OF OHIO, LLC, et al.)	
)	
Defendants.)	

**AGREED ORDER
SURRENDERING POSSESSION OF PREMISES
TO INTERVENING LANDLORD, THE BUNCHER COMPANY,
RELIEVING INJUNCTION AND STAY AS TO CERTAIN LEASED PREMISES
AND THE LEASES, AND RELATED RELIEF**

Upon consideration of the agreement of Mark E. Dottore, the receiver appointed in this case (the “Receiver”) under that certain *Order Appointing Receiver* dated January 18, 2019 [Doc. #: 8] (as amended, (the “Receiver Order”), Defendant Dream Center Education Holdings, LLC (“DCEH”) and Intervenor, The Buncher Company (“Buncher”), as evidenced by the signatures of their respective undersigned attorneys, the Court finds and orders as follows:

(1) Buncher, as Landlord, and DCEH, as Tenant, are parties to a lease agreement (the “Lease Agreement”) for: (i) a portion of Penn Liberty Plaza I, 1250 Penn Avenue, Pittsburgh, PA 15222; and (ii) a portion of Penn Liberty Plaza II, 1400 and 1500 Penn Avenue, Pittsburgh, PA 15222 (together, the “Leased Premises”). A copy of the Lease Agreement is attached to Motion of the Buncher Company (i) Seeking Timely Payment of Rent; and (ii) Granting Relief from Stay (Doc. #: 56).

(2) On February 11, 2019, Buncher moved to intervene in this action, which motion the Court granted on February 19, 2019.

(3) DCEH is a defendant in this case and is one of the subjects of the receivership under the Receiver Order.

(4) Buncher also filed an Opposition to the Receiver's Motion to Amend the Order Appointing Receiver (Doc. #: 76), a Limited Response to the Motion of 3601 Sunflower, LLC's Motion to Vacate Injunction and Receiver Order (Doc. #: 90), and a Response to the Receiver's Motion to Approve Settlement Agreement and Deadline for Filing Objections Included Herein (Doc. #: 125).

(5) Although the Receiver reported to the Court at its March 8, 2019 status hearing that he anticipated a sale of the Art Institute of Pittsburgh ("Ai Pittsburgh"), the entity that occupies the Leased Premises, the anticipated sale fell through because the buyer would have had to operate under Ai Pittsburgh's OPEID number. The Department of Education would not allow that.

(6) As a result, DCEH and Ai Pittsburgh ceased operations at the Leased Premises effective 5:00 p.m. EST on March 8, 2019.

(7) Thereafter, the Receiver informed Buncher that DCEH and Ai Pittsburgh would voluntarily surrender possession of the Leased Premises by Wednesday, March 13, 2019.

(8) In view of the above facts, the Receiver (on behalf of DCEH), DCEH and Buncher have agreed to the relief set forth below, so that Buncher may retake possession of the Leased Premises. Accordingly, it is hereby

ORDERED that:

(1) Effective at 5:00 p.m. EST on March 13, 2019,

(a) the Leased Premises shall be deemed surrendered voluntarily by DCEH, as Tenant under the Lease Agreement to Buncher, as Landlord;

- (b) all injunctive provisions and stays contained in the Receiver Order (including, without limitation, paragraphs 9, 10, 14, and, to the extent applicable, 20), including as it has been or hereafter may be amended, hereby are relieved and terminated as against Buncher with respect to its Lease Agreement with DCEH and the Leased Premises,;
- (2) Buncher shall reasonably cooperate with the Receiver (on behalf of DCEH) and, as appropriate, DCEH, regarding the orderly disposition of any removable personal property or any student records that remain at the premises subject to the Lease Agreement after the voluntary surrender in paragraph (1)(a) of this Order becomes effective, provided, however, that the Receiver agrees to remove all student records from the Leased Premises on or before 5:00 p.m. EST on Monday, April 15, 2019 and file a certification with the Court stating that he has removed all student records from the Leased Premises. For the avoidance of doubt, the Receiver expressly abandons and surrenders any and all right to any personal property remaining at the Leased Premises after 5:00 p.m. EST on Monday, April 15, 2019, and Buncher shall be entitled to dispose of the remaining property without further order of Court and without interference by the Receiver;
- (3) The Motion of the Buncher Company (i) Seeking Timely Payment of Rent; and (ii) Granting Relief from Stay (Doc. #: 56), Buncher's Opposition to the Receiver's Motion to Amend the Order Appointing Receiver (Doc. #: 76), Buncher's Limited Response to the Motion of 3601 Sunflower, LLC's Motion to Vacate Injunction and Receiver Order (Doc. #: 90), and Buncher's Response to the Receiver's Motion to Approve Settlement Agreement and Deadline for Filing Objections Included Herein (Doc. #: 125) are hereby withdrawn;
- (4) Buncher expressly reserves all of its rights at law and in equity regarding the Lease Agreement, the Leased Premises, the Receiver Order, the Receiver, and this case; and
- (5) This Court retains jurisdiction to enforce the terms and provisions of this Order.

Dan Aaron Polster
UNITED STATES DISTRICT COURT JUDGE

Agreed and submitted by:

/s/ Jared S. Roach

Eric A. Schaffer (admitted *pro hac vice*)

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